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October 17, 2011

Honorable Nancy Joseph  
United States District Court  
Eastern District of Wisconsin  
517 E. Wisconsin Avenue  
Milwaukee, Wisconsin 53202

RE: *United States v. Roland Flath*  
Case No. 11-Cr-69

Dear Judge Joseph:

The Court directed Defendant Roland Flath to submit its position regarding whether, in light of the declaration of James Moreira filed by the government on October 12, 2011, any material facts remain in dispute with respect to Flath's motion to suppress the fruits of the search warrant executed at his residence. Flath believes the following facts remain in dispute and are material to whether the search was reasonable under the Fourth Amendment:

- 1) Whether the flash drive reviewed by Superintendent of Police Michael Guzman – who issued the search warrant – contained a picture of Flath?
- 2) How Flath was identified as the perpetrator?
- 3) Whether any evidence was submitted to Superintendent Guzman linking the activity depicted on the flash drive with Flath's residence?
- 4) The standard used by Superintendent Guzman to determine whether to issue a search warrant; i.e., probable cause, scintilla of evidence, etc.?

- 5) Whether Superintendent Guzman has discretion to refuse to issue a search warrant?

Flath therefore maintains that an evidentiary hearing is still needed to resolve his motion to suppress.

Thank you for your attention to this matter.

Sincerely,

/s/ **Brian P. Mullins**  
Counsel for Roland Flath